

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

ORIGINAL

74-1202

B
P/S

United States Court of Appeals

For the Second Circuit.

UNITED STATES OF AMERICA,

Appellee,

v.

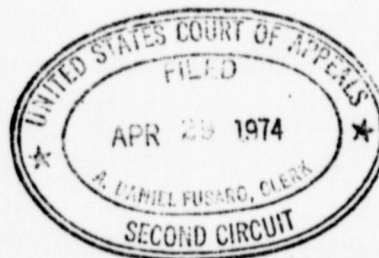
JOSEPH PINTO,

Appellant.

*On Appeal From The United States District Court
For The Eastern District Of New York*

APPENDIX FOR APPELLANT JOSEPH PINTO

**JOSEPH A. FARALDO
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Kew Gardens, N.Y. 11415
212-261-8199**



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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X
UNITED STATES OF AMERICA,

Appellee,

-against-

JOSEPH PINTO,

Appellant.

-----X

APPENDIX FOR APPELLANT JOSEPH PINTO

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DOCKET

73 CR1072

JUDD, J.

TITLE OF CASE

THE UNITED STATES

JOSEPH PINTO

ATTORNEYS

For U.S.: H. Neverson

For Defendant:

Jos. Faraldo

125-10 Queens Blvd

Kew Gardens, NY.

261-8199

Did make false statements to the Grand Jury.

| ABSTRACT OF COSTS | AMOUNT | CASH RECEIVED AND DISBURSED | | | |
|-----------------------|--------|-----------------------------|------------------|----------|-----------|
| | | DATE | NAME | RECEIVED | DISBURSED |
| Fine, | | 2-11-74 | Notice of appeal | 5 - | |
| Clerk, | | 2-13-74 | Paid to Clerk | | 5 - |
| Marshal, | | | | | |
| Attorney, | | | | | |
| Commissioner's Court, | | | | | |
| Witnesses, | | | | | |
| | | | | | |
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| DATE | PROCEEDINGS |
|----------|--|
| 12/19/73 | Before CAPTAIN, J. Indictment filed. |
| 1-3-74 | Before JUDD, J - Case called - deft & counsel Joseph Faraldo present - deft arraigned and enters plea of not guilty - bail conditions contd - adjd to Jan. 8, 1974 for Trial. |
| 1-3-74 | Notice of Appearance filed. |
| 1-8-74 | Notice of motion to dismiss the indictment and affidavit of Joseph Faraldo filed and forwarded to Judge Judd |
| 1-8-74 | Before JUDD, J. - Case called- Deft and counsel present- Deft's motion to dismiss argued and denied- Trial ordered and begun- Jurors selected and sworn- Govt opens- Deft opens- Trial contd to 1-9-74 |
| 1-9-74 | Before JUDD, J - Case called - deft & counsel present - trial resumed - Govt rests - defts motion to dismiss argued - motion denied - Deft rest trial contd to Jan. 10, 1974. |

—

SUPERSEDING INDICTMENT

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF THE UNITED STATES**

-----X

UNITED STATES OF AMERICA,

DEC. 19, 1973

v.

SUPERSEDING INDICTMENT

73 CR 1072

(18 U.S.C. 1623)

JOSEPH PINTO,

JUDD, J.

Defendant.

-----X

THE GRAND JURY CHARGES:

COUNT ONE

On or about the 20th day of August, 1973, in the Eastern District of New York, a competent tribunal, that is, a Grand Jury of the United States of America, duly impaneled and sworn in the United States District Court for the Eastern District of New York, was conducting an inquiry to determine among other things, whether, in connection with the case of United States v. John Doe, Criminal Case Number 731,774, there had been committed in the Eastern District of New York violations of Title 18, U.S.C. §224 (Sports Bribery) and other Federal criminal statutes, said inquiry being a case in which a law of the United States authorized an oath to be administered.

It was material to this Grand Jury inquiry to ascertain, among other things:

a. The times and places at which Joseph F. Pinto purchased and cashed his winning Superfecta tickets as well as the identity of any person or persons for whom Joseph F. Pinto bought or cashed winning Superfecta

SUPERSEDING INDICTMENT

tickets or persons who bought or cashed winning Superfecta tickets for Mr. Pinto.

On or about the 20th day of August, 1973, the defendant Joseph F. Pinto, having duly taken an oath before the said Grand Jury that, as a witness before said Grand Jury, he would testify truly, did then and there, wilfully and contrary to such oath, state material matter which he did not believe to be true, and knew to be false, to wit:

Q. Mr. Pinto, last time you were here you were telling us about winning a Superfecta on March 8. Was that one ticket that you won?

A. I had one ticket I won. That's right. I had bought five tickets.

Q. You had bought five tickets?

A. Right. And here is my daughter's birth certificate and you will find the numbers on here. I also parked my car in midtown the day before, I think, and on the sticker was 1248. My daughter was born January 24, 1956.

Q. What were the other tickets?

A. 1245, 1246, 1248 and 1256. That's my daughter's birthday and 1268, I think.

Q. What kind of tickets were these?

A. \$72 box tickets.

Q. So you bought five \$72 box tickets?

A. Right.

Q. Mr. Pinto, I want to get something very clear. Did you purchase these tickets yourself.

SUPERSEDING INDICTMENT

A. I did.

Q. You didn't have anyone purchase them for you?

A. No.

(Title 18, United States Code, Section 1623).

A TRUE BILL

FOREMAN

CHARGE TO THE JURY

USA v. PINTO

226

CHARGE OF THE COURT

JUDD, J.

THE COURT: Mr. Meyerson, Mr. Faraldo,
Mr. Pinto, Miss Maddingly and ladies and gentlemen
of the jury:

Now that you have heard the testimony and
arguments of counsel, it is my duty to give you
the instructions of the Court as to the law applicable
to the case. I use written notes to be as accurate
as possible because I am subject to review although
a jury verdict is not.

The determination of the facts is your
function, but you have to take the law as I give
it to you. First, I will describe the general
principles that apply to all criminal trials and
then I will tell you the nature of the charges in
this case and the specific rules of law that applies
to them, the way to evaluate the evidence and
something about how to reach a verdict. It is your
duty as jurors to follow the law and apply the
rules I give you to the facts as you find them.

You are the sole judges of the facts.

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Whatever counsel said in their summation, whatever I may say in my charge about the facts, is not evidence and does not control your recollection of the facts. Your recollection is what governs. You are to perform your duties as jurors without bias and without prejudice for or against the Government or the defendant. The law does not permit jurors to be governed by sympathy or prejudice or public opinion. The law presumes a defendant innocent of the crime with which he is charged and permits nothing but legal evidence to be considered in support of any charge against the accused. This presumption of innocence in itself is enough to acquit a defendant unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt from all the evidence in the case. If you are satisfied, then it is your duty to bring in a verdict of guilty.

Reasonable doubt is a fairly simple phrase. I will say a little bit about what the law means by a reasonable doubt. The language is the real key. A reasonable doubt is a fair doubt based on reason and common sense, arising from the state of the evidence or from the Government's failure to

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2 produce evidence on an essential element of the
3 crime. A reasonable doubt does not mean a doubt
4 that a juror seizes upon arbitrarily or capri-
5 ciously because he is reluctant to perform an
6 unpleasant task or because of the natural sympathy
7 we have for someone in trouble. It is rarely
8 possible to prove anything to an absolute certainty
9 and that is not what the law requires. Proof
10 beyond a reasonable doubt refers to the type of
11 doubt that would make a reasonable person hesitate
12 to act in the important affairs of his or her own
13 life.

14 Proof beyond a reasonable doubt operates
15 on the whole case. It doesn't mean that each
16 bit of evidence must be proved beyond a reasonable
17 doubt. It means that the sum total of the
18 Government's evidence must satisfy you beyond a
19 reasonable doubt as to each element of the crime
20 charged or else you must acquit. If you are
21 satisfied beyond a reasonable doubt as to each
22 element of the case you must convict.

23 An indictment is just a formal method of
24 accusing a person of a crime. The indictment is
25 not evidence of any kind against the accused and

4 1
2 creates no presumption nor does it permit any
3 inference of guilt. The defendant has pleaded
4 not guilty. The indictment and the plea creates
5 the issue which you must decide.

6 The law never imposes a duty upon a defen-
7 dant in a criminal case to testify or to produce
8 any evidence or any witnesses. The fact that
9 the defendant did not testify does not create an
10 inference that he is guilty. It is not a matter
11 you can discuss in the jury room as bearing upon
12 your verdict.

13 I will tell you more about evaluating
14 evidence but I will just say now, you can draw
15 reasonable inferences from the evidence based
16 upon your own common sense and general experience
17 and from any facts you find were proved. However,
18 you cannot decide anything on the basis of specula-
19 tion or conjecture.

20 Now, I turn to the charges in this case.
21 The indictment charges that on or about August 20th,
22 1973, in the Eastern District of New York, a com-
23 petent tribunal, that is, a Grand Jury of the
24 United States of America, duly impaneled and sworn
25 in the United States District Court for the

1 Eastern District of New York was conducting an
2 inquiry to determine among other things, whether,
3 in connection with the case of United States v.
4 John Doe, criminal case number 731, 774, there
5 had been committed in the Eastern District of
6 New York violations of Title 18, U.S.C. section
7 224, sports bribery and other federal criminal
8 statutes, said inquiry being a case in which a
9 law of the United States authorized an oath to
10 be administered.
11

12 It was material to this Grand Jury inquiry
13 to ascertain, among other things the times and places
14 at which Joseph F. Pinto purchased and cashed his
15 winning Superfecta tickets as well as the identity
16 of any person or persons for whom Joseph F. Pinto
17 bought or cashed winning Superfecta tickets or
18 persons who bought cashed winning Superfecta tickets
19 for Mr. Pinto.

20 On or about August 20th, 1973, the defendant,
21 Joseph F. Pinto, having duly taken an oath before
22 the said Grand Jury that, as a witness before said
23 Grand Jury, he would testify truly, did then and
24 there, willfully and contrary to such oath, state
25 material matter which he did not believe to be

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2 true, and knew to be false, to wit:

3 Question: Mr. Pinto, last time you were
4 here you were telling us about winning a Super-
5fecta on March 8. Was that one ticket that you
6 won?

7 Answer: I had one ticket I won. That's
8 right. I had bought five tickets.

9 Question: You had bought five tickets?

10 Answer: Right. And here is my daughter's
11 birth certificate and you will find the numbers
12 on here. I also parked my car in midtown the
13 day before, I think, and on the sticker was 1248.
14 My daughter was born January 24, 1956.

15 Question: What were the other tickets?

16 Answer: 1245, 1246, 1248 and 1256. That's
17 my daughter's birthday and 1268, I think.

18 Question: What kind of tickets were these?

19 Answer: \$72.00 box tickets.

20 Question: So you bought five \$72.00 box
21 tickets?

22 Answer: Right.

23 Question: Mr. Pinto, I want to get something
24 very clear. Did you purchase these tickets yourself?

25 Answer: I did.

7

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Question: You didn't have anyone else
purchase them for you?

4

Answer: No.

5

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Now, this is described as a violation of
Title 18, United States Code section 1623.

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I have read the indictment because that is
the issue. This is what is charged. The fact
that I have read it does not mean you have to
find the statements were false.

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The statute which I referred to, section 1623
of Title 18 says: "Whoever under oath in any pro-
ceeding before or ancillary to any Court or Grand
Jury of the United States knowingly makes any
false material declaration shall be fined or
imprisoned or both."

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You are not concerned with the fine or term
of imprisonment because that is for me to determine
by the circumstances and the defendant's past history,
should there be a verdict of guilty. This section
further provides that proof beyond a reasonable
doubt is sufficient for conviction and it is not
necessary that such proof be made by any particular
number of witnesses or by documentary or other type
of evidence.

1
2 In order to establish the crime, the
3 Government must prove beyond a reasonable doubt
4 certain, what we call essential elements. There
5 are three essential elements required to be proved
6 in order to establish perjury under this statute.

7 First, that the testimony was given under
8 oath, taken by the accused before a Grand Jury as
9 to some material matter.

10 Second, that the testimony so given was
11 false in one or more of the respects charged,
12 and third, that the false testimony was willfully
13 given as charged.

14 The burden is always on the prosecution
15 to prove beyond a reasonable doubt every essential
16 element of the crime charged. The fact that one
17 element has been proved does not create an infer-
18 ence that the others have been proved. Each must
19 be proved. The law never imposes upon the defen-
20 dant in a criminal case the burden of calling
21 any witness or producing any evidence.

22 As to the first element, the materiality of
23 the matter involved in the alleged false testimony
24 is not a matter with which you should be concerned.
25 That is a question of law for the Court to decide

1 and I have considered the effect on an inquiry
2 into alleged sports bribery or the other federal
3 crimes which may have been involved; the materiality
4 of that as to false answers with respect to who
5 bought the tickets, when they were bought, which
6 ones were cashed and I instruct you that the
7 questions asked before the Grand Jury, as charged
8 in the indictment, constituted material matter in
9 the Grand Jury investigation described in the
10 indictment.
11

12 The issues for you to decide are, first,
13 whether the testimony was false and if so, whether
14 Mr. Pinto knew it was false.

15 Now, the federal rules provide, with respect
16 to a Grand Jury, that the foreman shall have power
17 to administer oaths and affirmations and sign all
18 indictments. You heard Mr. Wilkinson testify. If
19 you are satisfied that he did in fact administer
20 an oath to Mr. Pinto as he testified, then you
21 may find that the first element, that this was a
22 material statement under oath, has been established.

23 As to the second element, that the testimony
24 was false in one or more respects, that is something
25 for you to determine and in that connection, while

1
2 the indictment lists 7 questions and 7 answers,
3 it is sufficient to prove that any one of the
4 answers was false in order to support a verdict
5 of guilty.

6 As to the third element, which is intent,
7 the statute you will recall says "A knowingly
8 made false statement." You have to determine not
9 only that the statement was made and it was mater-
10 ial and under oath but that the defendant knew it
11 was false at the time he gave it and that involves
12 a question of state of mind. The question of
13 state of mind is an issue to be found by the jury.
14 It's hard to determine from direct testimony but
15 it can be inferred from things the defendant says
16 or does. As a practical matter, it is almost
17 impossible to prove the workings of a defendant's
18 mind when he testified before the Grand Jury, but
19 in appropriate circumstances, as here, you may
20 infer a belief in the falsity by proof of the
21 falsity itself. You don't have to make such
22 inference but if you find the testimony was false
23 when given before the Grand Jury you may find
24 the third element, that the testimony, if you
25 decide it was given falsely, was given knowingly

1
2 and willfully.

3 Let me emphasize this: An essential
4 element of the crime is that the defendant must
5 have acted with criminal intent and believed that
6 what he swore to was false. He must have had
7 the intention to deceive. If there was a lack
8 of consciousness of the statement, if it was
9 inadvertently made then there is no corrupt
10 motive and you must find the defendant not guilty.
11 Unless the Government has established to your
12 satisfaction beyond a reasonable doubt that the
13 statement, even if false, was not given under
14 honest mistake or through inadvertence or with
15 the honest belief it was true, you must find
16 the defendant not guilty. However, if you find
17 it was false and the defendant knew it was false
18 then you must bring in a verdict of guilty.

19 You must acquit if any essential element
20 is not proved beyond a reasonable doubt and as
21 I said before you cannot infer from the fact
22 that one element has been proved that the others
23 were also proved.

24 Now, with respect to the evaluation of
25 evidence, generally speaking, there are two types

12 1 of evidence from which a jury can find facts.
2 One is direct evidence such as the testimony of
3 an eye witness and the other is circumstantial
4 evidence which is the proof of a chain of facts
5 and circumstances pointing to the commission of
6 an offense.
7

8 For instance, the circumstantial evidence
9 here is that the print-out showed 7 winners in a
10 row and Mr. Pinto had told the Grand Jury the
11 first time that he bought five tickets at a time
12 and there is an inconsistency there which is
13 circumstantial evidence.
14

15 As a general rule, the law makes no distinc-
16 tion between direct and circumstantial evidence.
17 It simply requires that before convicting a defendant,
18 the jury must be satisfied of his guilt beyond a
19 reasonable doubt from all the evidence in the case.
20

21 Now, we have the testimony of witnesses
22 and cross examination and of course you can con-
23 sider the direct examination and the cross examina-
24 tion.
25

When you consider a witness' testimony you
are doing some of the kind of judging as you would
do in your life when you try to decide what you are

1
2 going to do and various people are called and
3 they talk to you and you decide whether you are
4 going to rely on their testimony or not.

5 You can consider the witness' interest in
6 the outcome of the case, any bias, the manner
7 in which the witnesses testified, their candor
8 and intelligence as you observed it. You can
9 consider the extent to which any testimony has
10 been corroborated or contradicted; inconsisten-
11 cies within the testimony of any witness either
12 on direct or cross examination. If there are
13 inconsistencies in the testimony of a witness you
14 may decide to disregard the testimony entirely or
15 just in part. A witness may be mistaken with
16 respect to part of the testimony and be accurate
17 with respect to other parts. That is for you to
18 decide. In each case two or more persons witnessing
19 an incident may see it differently. Innocent
20 mis-recollection like failure of recollection is
21 not uncommon and in weighing inconsistencies you
22 should always consider whether the discrepancies
23 result from innocent error or intentional falsehoods.
24 After making your judgment you give the testimony
25 such credibility, if any, as you think it deserves.

CHARGE TO THE JURY

1
2 You don't have to believe even the uncontradicted
3 testimony of a witness if you find it just does
4 not make sense.

5 With respect to circumstantial evidence,
6 as I described before, it is not necessary to
7 establish guilt that it exclude every reasonable
8 hypothesis of innocence. It is only necessary
9 that the jury be satisfied of the defendant's
10 guilt beyond a reasonable doubt on the whole case.

11 The law does not require the prosecution
12 to call as witnesses all persons who may have been
13 present at any time or place involved in the case
14 or who may appear to have some knowledge of
15 matters in issue at the trial.

16 Mr. Faraldo called attention to the fact
17 that the person making out the 1099 was not
18 produced. Nobody was quite sure who did it.
19 Where there is a witness with knowledge of the
20 facts and he or she is not produced, you may
21 consider first whether the witness was available
22 to one side more than the other or available
23 equally to both sides. If the witness was more
24 available to one side than the other then you
25 may draw an inference that the testimony, if

CHARGE TO THE JURY

given, would not have been favorable to the person who failed to call the witness. However, you do not have to draw such an inference and you should bear in mind that there is never an obligation on the defendant to produce any witnesses and again, you have the provision of section 1623(e) that it shall not be necessary that proof, under this section, be made by any particular number of witnesses or by documentary or other type of evidence, provided guilt is established beyond a reasonable doubt. The testimony of a single witness may be sufficient to convince you beyond a reasonable doubt of the existence of an essential element of the crime if you believe beyond a reasonable doubt that the witness is telling the truth.

I mentioned that you could draw inferences from the facts that are established to your satisfaction. It is not necessary that all inferences drawn from the facts be consistent with guilt and inconsistent with every reasonable hypothesis of innocence. The drawing of inferences is your function to be governed by human experience but you must weigh the inferences both

1
2 favorable and unfavorable to the accused to see
3 if it points to guilt beyond a reasonable doubt
4 or leaves a reasonable doubt in your mind.

5 The federal law permits a Judge to comment
6 on the evidence provided he makes it clear that
7 the jurors are the final judges of the evidence.
8 I am not going to spend a great deal of time on
9 it but there were a few things I thought might
10 be the subject of comment.

11 Miss Lee's testimony is of considerable
12 importance because she testified that the 35
13 tickets were bought by one person and it was not
14 Mr. Pinto. You may consider that that is a
15 hard thing to recall out of thousands of people
16 she saw over the period of a year or more she
17 has been working.

18 You may also consider that it is unusual
19 to buy 35 tickets for \$2,500.00. If you look at
20 the blow-up of the sheets on the print-out which
21 covered these \$72.00 bets you will find that the
22 bets before were two dollar and ten dollar bets;
23 that these were rather unusual, on that page at
24 least, and you can look at the whole print-out
25 if you wish to see if it would impress itself on

1
2 a person's mind sufficiently for you to believe
3 what Miss Lee said.

4 As far as corroboration of the print-out
5 and computer testimony there was testimony
6 about potential errors in the computer.

7 There was apparently the fact, that the
8 middle initial on the form 1099 is wrong and
9 you may consider whether that was a mistake of
10 the clerk or somebody else when Mr. Pinto came
11 in with the ticket. Then, you have to consider
12 what was the ticket that he cashed if not this
13 ticket.

14 My recollection of Mr. Shagan's testimony
15 was that he said there are possibilities of
16 errors in a computer but when you consider the
17 various checks and methods of detecting the
18 errors and the relationship between the numbers
19 on the ticket and the numbers on the magnetic
20 drum as reflected on the print-out, the chances
21 of error is in relation to one in a trillion and
22 a trillion is a million, million.

23 If you look at the print-out you find 35
24 successive \$72.00 bets and it is possible that
25 35 different people came up and made successive

CHARGE TO THE JURY

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2 \$72.00 bets and Mr. Pinto just bought one of
3 the tickets. However, if you look at the
4 variety of bets on this same sheet, there were
5 many more than ten different bets and if you
6 take random selections -- which is how you were
7 selected, out of a computer, to come to the jury --
8 and assume even that the average person might make
9 two bets instead of one, the chances of 18 differ-
10 ent people making successive similar bets would
11 be -- I would suppose about one in 10, on each
12 bet, with 18 zeros after it which is more than
13 one in a trillion. My mathematics may be wrong.
14 Perhaps one of you drew 13 cards of the same
15 suit in a bridge game. You know the possibilities
16 of that.

17 I noticed an error in the testimony. I
18 think Mr. Shagan told me it was a 299 to 1 bet
19 because it was a \$3.00 bet and there were X
20 number of bets, 18 bets on a \$3.00 ticket. My
21 mathematics say 24 or else somebody is being
22 overcharged. Those are human errors.

23 You have to consider whether the ticket
24 produced in evidence ties in with the 1099 which
25 was produced in evidence and whether that is the

19

1 ticket that Mr. Pinto cashed and whether if so,
2 he was lying when he said "I bought five tickets
3 together and only five tickets and I bought them
4 and I cashed one that I bought." That essentially
5 is the issue for you to decide.
6

7 Again, whatever I have said about the
8 evidence does not govern your recollection. It is
9 not intended to suggest that I am recommending
10 a verdict of guilty or not guilty. That is all for
11 you to decide.

12 Now, a few words about reaching a verdict.
13 As I said, when you go into the jury room juror
14 number one will act as foreman, presiding over
15 the deliberations and should try to see that every-
16 one gets a chance to talk and that no one monopo-
17 lizes the floor and as far as possible, that three
18 people do not talk at the same time so that you
19 all get the benefit of what is being said.

20 During your deliberations you should assume
21 the attitude of judges of the facts, not partisans
22 or advocates. In that way you are making a real
23 contribution to the administration of justice.
24 Again, when you determine the guilt or innocence
25 of the defendant, give no consideration to the

CHARGE TO THE JURY

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2 matter of punishment. It is my responsibility
3 and it is a difficult responsibility if the
4 defendant is found guilty.

5 I repeat, your recollection of the evidence
6 governs. If you want testimony repeated you can
7 give a note to the marshal and we will try to
8 find it in the notes and have it read to you.
9 If you want to look at the exhibits give a note to
10 the marshal and they will be sent in to you.

11 When you reach a verdict give a note to
12 the marshal reporting simply that you have reached
13 a verdict. When you come in juror number one will
14 announce the verdict orally and then either party
15 may ask to have the jury polled, meaning each
16 juror responds to whether it is in fact his verdict
17 so that we know it is a unanimous verdict, all 12
18 jurors agreeing.

19 Each juror may make up his own mind. Keep
20 your own opinions but listen carefully to each
21 other and do not hesitate to change your opinion
22 if you are convinced that somebody else has a
23 better view of the facts which you did not initially
24 think of. However, the final decision must be your
25 own and there is no need to give in because more

people disagree then agree with you.

After I complete my charge counsel has a right to tell me whether they think there is anything I left out or anything I have misspoken and if so, I will bring you back but that will be quite short and I don't think it should interfere with your proceeding with your deliberations.

Your verdict should be without bias, prejudice or sympathy. You are a fact finding body and it is your duty to decide whether the acts charged in the indictment were committed, whether the statements made by Mr. Pinto to the Grand Jury were false and knowingly false.

You should exercise your own knowledge and common sense in reaching a verdict.

Finally, your oath sums up your duty and that is, without fear or favor to any man, you will well and truly try the issues between the parties according to the evidence given to you in court and the laws of the United States.

I now ask that the marshal be sworn.

THE CLERK: Yes, your Honor.

(Assistant United States marshal sworn

United States District Court
FOR THE
EASTERN DISTRICT OF NEW YORK

United States of America

v.

No. 73 CR-1072

JOSEPH PINTO

On this 1st day of February, 19 74, came the attorney for the government and the defendant appeared in person and with counsel, J. Faraldo, Esq.

It is ~~Adjudged~~ that the defendant upon his plea of ~~not guilty~~ a verdict of guilty

has been convicted of the offense of violating T-18, U.S. Code, Sec. 1623, in that on or about August 20, 1973, in the Eastern District of New York, a competent tribunal, that is, a Grand Jury of the United States of America, duly impaneled and sworn in the U.S. District Court for the Eastern District of New York, was conducting an inquiry to determine among other things, whether in connection with the case of the U.S. v. John Doe, Criminal Case #731,774, there had been committed in the Eastern District of N.Y. violations of T-18, U.S.C. Sec. 224 (Sports Bribery) and other Federal Criminal statutes, said inquiry being a case in which a law of the U.S. authorized an oath to be administered and the defendant did then and there wilfully and contrary to such oath, state material matter which he knew to be false as charged;

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It is ~~Adjudged~~ that the defendant is guilty as charged and convicted.

It is ~~Adjudged~~ that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of one year pursuant to T-18, U.S. Code, Sec. 3651. Defendant to serve 60 days and execution of the balance of sentence is suspended and the defendant is placed on probation for 18 months subject to the standard conditions of probation as set forth in the standing order of this court dated Oct. 13, 1964. Execution of sentence stayed 10 days if notice of appeal is filed and execution stayed pending appeal if notice of ~~is~~ appeal is filed.

It is ~~Ordered~~ that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

[Signature]
United States District Judge.

The Court recommends commitment to:

Clerk.

* Insert "by (name of counsel, counsel)" or without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant then upon stated that he waived the right to the assistance of counsel." * Insert (1) "guilty and the court being satisfied there is a factual basis for the plea," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. * Insert "in count(s) number" if required. Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. * Enter any order with respect to suspension and probation. * For use of Court to recommend a particular institution.

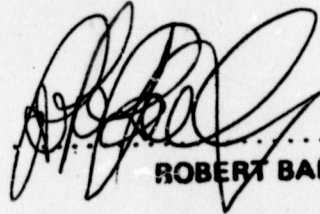
STATE OF NEW YORK)
: SS:
COUNTY OF RICHMOND)

ROBERT BAILEY, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 286 Richmond Avenue, Staten Island, N.Y. 10302. That on the 29 day of April, 1974 deponent served the within *appendix* upon *Marshall Lamm Solting*

attorney(s) for *Appelle*

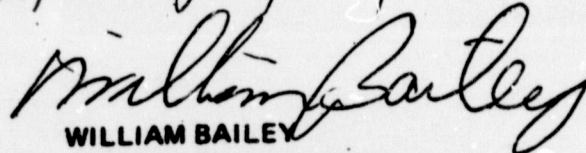
in this action, at *M.S. Dept of Justice*
Washington, DC. 20530

the address designated by said attorney(s) for that purpose by depositing 3 true copies of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States post office department within the State of New York.



ROBERT BAILEY

Sworn to before me, this
29 day of April, 1974



WILLIAM BAILEY

Notary Public, State of New York

No. 43-0132945

Qualified in Richmond County

Commission Expires March 30, 1976